IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1526 OF 2004

Shri.Ashok Kumar Maharajsingh Yadav ...Petitioner

vs.

The State of Maharashtra
(through Juhu P.stn.) ...Respondents

Mr.Bajapati i/b. K.H.Giri & Mr.K.V.Narayanan, for Petitioner.

Mr.D.R.More, Addl.P.P. for the State-Respondent.

CORAM: A.M.Khanwilkar, J.

DATED: 23rd September,2004

P.C.:-

1. Heard Counsel for the parties. Rule.

. Rule made returnable forthwith, by consent.

2. Mr.More, Addl.P.P. waives the service for Respondent. As short question is involved, petition is taken up for final disposal forthwith, by consent.

3. The petitioner is named as accused in the offence registered with Juhu Police Station punishable under 336 of Indian Penal Code read with Sections 5 and 27 of Indian Arms Act. A revolver was

recovered from the Petitioner which is stated to be the subject matter of the said offence. The Petitioner applied for return of the property on the assertion that the said revolver is owned and possessed by him, and the Petitioner is also having All India Licence to maintain such weapon, issued by District Magistrate, Kanpur, which is valid and subsisting till 31.12.2006. The ownership of the revolver is not in dispute. Nor it is in dispute that the Petitioner possesses a valid and subsisting All India Licence to carry and possess the said Weapon. This is accepted by Learned Addl. Public Prosecutor on instructions of concerned Investigating officer Mr.S.D.Jadhav, who is present in the Court.

4. Taking overall view of the matter, there is no reason to deny the relief as claimed by the petitioner, having regard to the fact that the petitioner possesses the valid and subsisting licence to maintain such weapon. Besides, it is not in dispute that the revolver is owned and was possessed by the Petitioner. Accordingly, this Petition succeeds in terms of prayer clause (a) on the condition that the Petitioner shall give undertaking before the Trial Court that the said revolver

shall be produced before the Court as and when required, and upon execution of Indemnity bond

in the sum of Rs.75,000/- (Rupees Seventy five thousand only) which is the stated value of the said revolver. The copy of the original licence deposited by the Petitioner with the concerned investigating officer also be made over to the Petitioner at the time of returning of revolver to the Petitioner on complying with the conditions referred above.
Ordered accordingly.

. Petition disposed of.

23.9.2004 (A.M.Khanwilkar,J)